

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:96-CR-84

v.

HON. ROBERT HOLMES BELL

DAVID JENNINGS,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #614). Based on a review of Defendant's motion, the Sentence Modification Report, submission by defense counsel, and the original criminal file, the Court has determined that the motion should be adjudicated as follows:

Defendant was sentenced on Count 1 of a Second Superseding Indictment charging Conspiracy to Distribute and Possession with Intent to Distribute Cocaine, Cocaine Base (Crack Cocaine) and Marijuana in violation of 21 U.S.C. §§846 and 841(a)(1). Defendant was sentenced as a career offender within the meaning of U.S.S.G. § 4B1.1(a).

The base offense level used to calculate Defendant's original sentence was lowered by Amendment 706 to the United States Sentencing Guidelines. Amendment

706, however, has no effect on a sentencing range imposed under the career offender guidelines in § 4B1.1. *United States v. Perdue*, 572 F.3d 288, 291-92 (6th Cir. 2009). Defendant's career offender guideline range with a three level reduction for substantial assistance is 188 months. Because the career offender guideline range is greater than the recalculated drug guidelines sentence, the career guidelines range governs his sentence. U.S.S.G § 4B1.1(b) (“[I]f the offense level for a career offender from the table in this subsection is greater than the offense level otherwise applicable, the offense level from the table in this subsection shall apply.”)

Defendant's Motion for Modification or Reduction of Sentence (docket #614) is **GRANTED** and defendant's sentence is amended from 210 months to 188 months.

Dated: August 10, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE